

DEC 12 1985

Dear Sirs:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Your purpose, as stated in your Articles of Incorporation, is to operate a facility for men and women attempting to abstain from drug and alcohol abuse. Your primary activity is the operation of the [REDACTED], an eating house with a bar-like atmosphere where alcohol and drugs are banned.

The organization is not a membership organization. The president is [REDACTED], who was 100-percent owner of "[REDACTED]" in [REDACTED], named in your application as the predecessor to this organization. At least one other member of the [REDACTED] family is on the organization's three-member Board.

The sale of food and beverages constitutes 90 percent of your revenues. Some funds are raised through telephone solicitation. Your expenditures include rent and utilities, food and beverages, wages, and other costs associated with operating a restaurant or a lounge.

Section 501(c) of the Internal Revenue Code of 1954 describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purpose."

In order for an organization to qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code of 1954, it must be both organized and operated exclusively for any one or more of the purposes set forth in that section of the law.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname			[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
Date			12/4/85	12/10/85	12/1/85		

[REDACTED]

In order to comply with the requirements of the organizational test, the organization's purposes as set forth in its creating document cannot be broader than the purposes set forth in section 501(c)(3) of the code. Since your purposes are "not exclusively" limited to those purposes as contemplated by section 501(c)(3) of the Code, you fail to meet the organizational test.

Moreover, an organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. To meet this requirement, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests.

The fact that the control of the organization has been retained by the [REDACTED] family suggests that the organization may be serving private interests.

Revenue Ruling 68-72, 1968-1C.B.250, describes a nonprofit "coffeehouse" for young people. The organization provided refreshments and entertainment in order to attract young adults to the facility. These aspects of its operation, however, were incidental to the personal counseling, vocational guidance, and planned discussions with community leaders that were the true basis for exemption under section 501(c)(3). The facts in this case are clearly distinguishable from the revenue ruling in that neither formal, personal, nor vocational counseling is being carried on, nor is there any ongoing involvement on the part of community leaders.

We must conclude that the operation of [REDACTED] is not sufficiently distinguishable from the operation of any other nonalcoholic cafe or lounge to allow exemption under section 501(c)(3).

In this letter, we are not considering whether or not you qualify under any other paragraph of section 501(c).

You are required to file Federal income tax returns annually, with your District Director.

Until such time as you establish your exempt status for Federal income tax purposes, contributions made to you are not deductible by the donors on their individual tax returns.

As provided by section 6104(c) of the Internal Revenue Code of 1954 and the applicable regulations, the appropriate State officials are being notified of our determination.

[REDACTED]

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018

[REDACTED]